

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- x MH 8329  
PATRICIA DODD TAUB, :  
 : Civil Action No.:  
 Plaintiff, :  
 : 08 CV 3529 (LAP)(AJP)  
 - against - :  
 :

SOUTH AFRICAN AIRWAYS (PTY.) LIMITED, : **ANSWER**

Defendant. :

:  
----- x

Defendant, South African Airways (Pty.) Limited (hereinafter referred to as  
“SAA”), by its attorneys Condon & Forsyth LLP, for its Answer to the Verified Complaint:

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Verified Complaint.
2. Admits the allegations in paragraphs 2, 3, 4 and 5 of the Verified Complaint.
3. Denies the allegations in paragraphs 6, 7, 8, 9, 10, 11 and 13 of the Verified Complaint.

**AS AND FOR A FIRST SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE**

4. The rights of the parties to the within action are exclusively governed by the provisions of a treaty of the United States commonly known as the Montreal Convention (Official title: Convention for the Unification of Certain Rules for International Carriage by Air, opened for signature on 28 May 1999, *reprinted in* S. Treaty Doc. 106-45, 1999 WL

333292734 (Treaty)).

AS AND FOR A SECOND SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE

5. SAA's liability to plaintiff, if any, is limited to the sum of 100,000 SDRs in accordance with Article 21(2) of the Montreal Convention.

AS AND FOR A THIRD SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE

6. Plaintiff did not sustain an accident resulting in a bodily injury within the meaning of Article 17 of the Montreal Convention and hence is not permitted to recover in this action.

AS AND FOR A FOURTH SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE

7. The Verified Complaint fails to state a claim upon which relief can be granted.

AS AND FOR A FIFTH SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE

8. Plaintiff's alleged injuries and damages were caused by her own pre-existing medical condition and were not caused by an "accident" within the meaning of Article 17 of the Montreal Convention.

AS AND FOR A SIXTH SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE

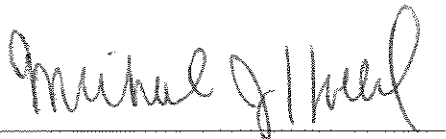
9. Defendant SAA should be exonerated from liability wholly or in part pursuant to Article 20 of the Montreal Convention.

WHEREFORE, defendant South African Airways (Pty.) Limited demands

judgment dismissing the Verified Complaint or, in the alternative, limiting its liability to a sum not to exceed 100,000 SDRs, together with the costs and disbursements of this action.

Dated: New York, New York  
April 11, 2008

CONDON & FORSYTH LLP

By 

Michael J. Holland (MH 8329)

A Partner of the Firm

7 Times Square

New York, New York 10036

(212) 490-9100

Attorneys for Defendant

South African Airways (Pty.) Limited

To: David Horowitz, P.C.  
Attorney for Plaintiff  
276 Fifth Avenue  
New York, New York 10001  
(212) 684-3630

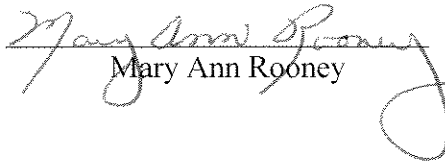
AFFIDAVIT OF SERVICE BY MAIL

STATE OF NEW YORK     )  
                                      : ss.:  
COUNTY OF NEW YORK    )

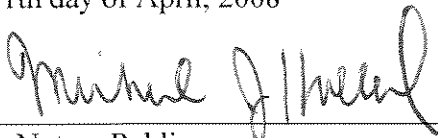
Mary Ann Rooney, being duly sworn, deposes and says that deponent is not a party to the action, is over 18 years of age and resides in Queens, New York. That on the 11th day of April, 2008, deponent served the within Answer upon:

David Horowitz, P.C.  
276 Fifth Avenue  
New York, New York 10001

the address designated by said attorney for that purpose by depositing same enclosed in a properly addressed wrapper in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

  
Mary Ann Rooney

Sworn to before me this  
11th day of April, 2008

  
\_\_\_\_\_  
Notary Public

**MICHAEL J HOLLAND**  
**Notary Public, State of New York**  
**No. 41-4501283**  
**Qualified in Nassau County**  
**Commission Expires August 31, 2009**